

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE:

CITY OF DETROIT, MICHIGAN,

DEBTOR

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CASE NO. 13-53846

HON. THOMAS J. TUCKER

CHAPTER 9

**RESPONSE TO CITY**  
**OF DETROIT'S MOTION TO DETERMINE RIGHTS TO CLAIM**

General Shale Brick ("GSB"), by its undersigned attorneys and for its Response to City of Detroit's (the "City") Motion to Determine Rights to Claim Number 201 (the "Motion") states as follows:

1. The City has filed the Motion to clarify distributional rights in connection with Claim Number 201 filed by or on behalf of Michael Beydoun.
2. Mr. Beydoun's claim results from an auto accident for which the City was found liable in an amount in excess of \$2,000,000.00.
3. GSB received a Judgment against Mr. Michael Beydoun on June 28, 2007 ( a copy of the Judgment is attached hereto as **Exhibit A**) and GSB served a writ of Garnishment on the City of Detroit on April 28, 2011. (The Garnishment is attached as **Exhibit B**).
4. After disputing liability in its Garnishee Disclosure, GSB filed its Motion to Strike Garnishee Disclosure and/or For Partial Summary Disposition as to Liability and after notice and a hearing, the City was ordered to pay GSB pursuant to the terms of a certain Order Regarding Payments by Garnishee Defendant City of Detroit (the "Garnishment Order"), entered on or about August 30, 2011. (A copy of the Garnishment Order is attached as **Exhibit C**).
5. The City' Motion seeks to: (a) allow GSB's claim (Claim 1075); (b) honor the priority of GSB's Garnishment by distributing to GSB the \$20,000.00 cash element associated with Claim 201; and (c) provide GSB with a claim for the balance.

6. GSB generally concurs in the City's proposed distribution of Claim 201 as set forth in the Motion.
7. GSB further states that the entry of the Garnishment Order created an obligation to pay GSB in the manner set forth there, thus constituting a "claim" within the meaning of 11 U.S.C. Sec. 101(5).

WHEREFORE, General Shale Brick respectfully requests that the Court:

- A. Allow the Claim (identified as Claim no. 1075) filed by General Shale Brick;
- B. Adopt the proposed distribution method as set forth in the Motion and award General Shale Brick priority distribution up to the extent of its claim; and
- C. Grant such other relief as may be just and appropriate be awarded to General Shale.

Respectfully Submitted,

By: /s/ John G. Colucci  
John G. Colucci (P40716)  
33659 Angeline  
Livonia, MI 48150  
(734) 956.0660  
Fax (734) 956.0661  
coluccilawfirm@gmail.com  
Attorney for General Shale Brick, Inc.

# **EXHIBIT A**

STATE OF MICHIGAN 20 JUDICIAL DISTRICT JUDICIAL CIRCUIT	DEFAULT REQUEST, AFFIDAVIT, ENTRY AND JUDGMENT (SUM CERTAIN)	CASE NO. 06-44397-GCT
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Court address

25637 Michigan Ave., Dearborn Heights, MI 48125

Court telephone no.

(313) 277-7480

Plaintiff name(s), address(es), and telephone no(s).

General Shale Brick, Inc.

c/o 10811 Farmington Rd., Livonia, MI 48150

Plaintiff attorney, bar no., address, and telephone no.

John Colucci P40716

10811 Farmington Rd., Livonia, MI 48150

(734) 261-1111

Defendant name(s), address(es), and telephone no(s).

National Specialities Installation, Inc. and Michael Beydoun

6307 Heyden, Dearborn Heights, MI 48127

Defendant attorney, bar no., address, and telephone no.

**A TRUE COPY**  
 Court Clerk  
 Date 6/28/07

Party in default: National Specialities Installation, Inc. and Michael Beydoun, Jointly and Severally,**REQUEST AND AFFIDAVIT**

1. According to court rule, I request the clerk to enter the default of the party named above for failure to appear.
2. The claim against the defaulted party is for a sum certain or for a sum which by computation can be made certain, and plaintiff requests judgment of the amount due from the defaulted party. Amount due plus costs are:

Damages	Interest	Costs	Other*	Total
\$ 24,890.07	\$	\$ 250.00	\$	\$ 25,140.07

\*Attach bill of costs

3. The defaulted party is not an infant or incompetent person.
4. The defaulted party ☒ is not in the military service. ☐ is in the military service but there has been notice of the pendency of the action and adequate time and opportunity to appear and defend.
5. The claim ☐ is ☒ is not based on a note or other written evidence (if so, evidence is attached for filing and cancellation by clerk).

Applicant/Attorney signature

Bar no.

Subscribed and sworn to before me on 6/28/07

Date

My commission expires: \_\_\_\_\_

Date

Signature: John N. Colucci

Deputy court clerk/Notary public

County, Michigan  
**John N. Colucci, Notary Public**  
 State of Michigan, County of Wayne  
 My Commission Expires 12/24/2013  
 Acting in the County of Wayne

**DEFAULT ENTRY AND JUDGMENT**

The default of the party named above for failure to appear is entered.

For: GENERAL SHALE BRICK, INC. Against: MICHAEL BEYDOUN AND NATIONAL SPECIALITIES INSTALLATION, I.  
JOINTLY AND SEVERALLY

☐ A note or other written evidence of indebtedness has been filed for cancellation.**IT IS ORDERED** that this judgment is granted. This judgment will earn interest at current statutory rates.

Date

6/28/07

Court clerk/Judge

Unicole Mitchell

Judgment has been entered and will be final unless within 21 days of default judgment date a motion to set aside default is filed.

**CERTIFICATE OF MAILING**

I certify that a copy of this judgment was served on the other party(ies) or their attorney(s) by ordinary mail at the above address(es).

Date

6/28/07

Signature

Unicole Mitchell

# **EXHIBIT B**

Approved, SCAO

Original - Court  
1st copy - Garnishee  
2nd copy - Defendant

3rd copy - Return (proof of service)  
4th copy - Plaintiff/Attorney (proof)

<ul style="list-style-type: none"><li>• <b>STATE OF MICHIGAN</b> <u>20</u> JUDICIAL DISTRICT JUDICIAL CIRCUIT</li></ul>	<b>REQUEST AND WRIT FOR GARNISHMENT (NON-PERIODIC)</b>	<ul style="list-style-type: none"><li>• <b>CASE NO.</b>  06-44397-GCT</li></ul>
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<b>Court address</b> 25637 Michigan Ave., Dearborn Heights, MI	<b>Zip code</b> 48125	<b>Court telephone no.</b> (313) 277-7840
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<b>Plaintiff name and address</b> General Shale Brick, Inc. c/o John Colucci 33659 Angeline, Livonia, MI 48150
<b>Plaintiff's attorney, bar no., and address</b> John Colucci P40716 33659 Angeline Livonia, MI 48150 Telephone no. 734.956.0660

v

<b>Defendant name and address</b> Michael Beydoun 6307 Heyden Dearborn Heights, MI 48127	
<b>Social security no.</b>	<b>Account no.</b>
<b>Garnishee name and address</b> City of Detroit C/O Law Dept. 660 Woodward Ave., Ste 1650 First National Building, Detroit, MI 48226	

### REQUEST

1. Plaintiff received judgment against defendant for \$ 25,140.07 on June 28, 2007
2. The amount of the unsatisfied judgment now due (including interest and costs) is •\$ 27,271.94
3. Plaintiff knows or with good reason believes that the garnishee is indebted to or possesses or controls property belonging to the defendant.
4. **Plaintiff requests** a writ of non-periodic garnishment.

I declare that the statements above are true to the best of my information, knowledge, and belief.

4/28/2011  
Date

[Signature]  
Plaintiff/Agent/Attorney signature

### WRIT OF GARNISHMENT

To be completed by the court. See other side for additional information and instructions.

**TO THE PLAINTIFF:** You must provide all copies of the disclosure form (MC 14), 2 copies of this writ for serving on the garnishee, and any applicable disclosure fee. You are responsible for having these documents served on the garnishee within 91 days. If the disclosure states that the garnishee holds property **other than money** belonging to the defendant, you must motion the court within 56 days after the disclosure is filed for an order to apply the property toward the judgment.

### TO THE DEFENDANT:

1. Do not dispose of any negotiable instrument representing a debt of the garnishee or any negotiable instrument of title representing property in which you claim an interest held in the possession or control of the garnishee.
2. You have **14 days** after this writ is mailed or delivered to you to file objections with the court. If you do not take this action within this time, without further notice, the property or debt held under this writ may be applied to the judgment **28 days** after this writ was mailed or delivered to the garnishee.

### TO THE GARNISHEE:

1. Within **7 days** after you are served with this writ, you must deliver a copy of this writ to the defendant in person or mail a copy to his or her last known address by first class mail.
2. Deliver no tangible or intangible property and pay no obligation to the defendant unless allowed by statute or court rule.
3. Within **14 days** after you are served with this writ, you must deliver or mail copies of your verified disclosure (form MC 14) to the court, plaintiff/attorney, and defendant. A default may be entered against you for failure to comply with this order.
4. If indebted to the defendant, you must withhold an amount not to exceed the amount of the judgment stated in item 2. of the request. Payment of withheld funds must be made **28 days** after you are served with this writ unless notified that an objection has been filed.

**You are ordered to make the payment withheld under this writ payable to**

**and mail it to:** ☐ the plaintiff ☒ the plaintiff's attorney ☐ the court  
☐ the plaintiff ☒ the plaintiff's attorney ☐ the court

5. If you hold property other than money belonging to the defendant, do not transfer it until further order of the court.

4/28/11 7/28/11 [Signature]  
Date of issue Expiration date Deputy court clerk

# **EXHIBIT C**

STATE OF MICHIGAN  
IN THE 20<sup>th</sup> DISTRICT COURT

GENERAL SHALE BRICK, INC.

PLAINTIFF,

CASE NO. 06-44397-GCT

V.

NATIONAL SPECIALITIES INSTALLATION, INC.  
and MICHAEL BEYDOUN, Jointly and Severally,

DEFENDANTS.

V.

CITY OF DETROIT,

GARNISHEE DEFENDANT.

**A TRUE COPY**  
Court Clerk  
Date 8-30-11

John G. Colucci (P40716) 33659 Angeline Livonia, MI 48150 (734) 956.0660 Attorney for General Shale Brick, Inc. 734.956.0660	Mary Beth Cobb (P40080) City of Detroit Law Dept. 660 Woodward Ave., Ste 1650 First National Building Detroit, MI 48226 313-237-3075
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**ORDER REGARDING PAYMENT BY  
GARNISHEE DEFENDANT  
CITY OF DETROIT**

At a Session of Said Court  
Held on AUG 30 2011

PRESENT: **DAVID D. TURFE**

Plaintiff General Shale Brick, Inc. ("General Shale"), by its undersigned attorneys, pursuant to the Michigan Rules of Court ("MRCP") and Garnishee Defendant City of Detroit ("Detroit") stipulate and agree as follows:

- A. General Shale served a Writ of Garnishment (the "Garnishment") on the City of Detroit in connection with the above captioned matter (a copy of which is attached as **Exhibit A**);
- B. The City of Detroit acknowledged service of process;



- C. The City of Detroit filed its Garnishee Disclosure denying liability to Defendant Beydoun.
- D. Prior to service of the Garnishment, a jury verdict was returned in favor of Beydoun and against the City of Detroit in the proceedings styled Beydoun v. City of Detroit, et. al., Wayne County Circuit Court, Case No. 09-026647-NI in an amount exceeding \$2,000,000.00 (the "Verdict") (a copy of which is attached as **Exhibit B**);
- E. Judgment has been entered on the Verdict and the City of Detroit has appealed the Judgment, in the proceedings styled Michael Beydoun v. Charles Benjamin Wills, Jr., et. al., Court of Appeals No. 304729 (the "Appeal");
- F. General Shale served interrogatories and discovery requests within the time permitted under MCR 3.101(L);
- G. A copy of the Garnishment has been served on Mr. Beydoun and no objections have been filed or served;
- H. The Court being otherwise advised in the premises.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT, upon the conclusion of the Appeal filed by the City of Detroit, whether by dismissal, stipulation <sup>settlement</sup> or other order of the Court of Appeals, the City of Detroit shall pay to General Shale Brick, from amounts otherwise due Beydoun under the Judgment as entered or modified, the amount due under the Garnishment (\$27,271.94) by check payable to the Colucci Client Trust Account and delivered to attorney John Colucci, 33659 Angeline, Livonia MI 48150, 734.956.0660.

IT IS FURTHER ORDERED THAT pursuant to Michigan Rule of Court 3.101, the garnishment served on the City of Detroit shall remain in full force and effect until further order of the Court and the City of Detroit shall pay no obligation to the Defendant Beydoun until further order of the Court, *OR PAYMENT TO GENERAL SHALE BRICK IN ACCORDANCE WITH THE PARAGRAPH IMMEDIATELY ABOVE.*

IT IS FURTHER ORDERED THAT the Court shall retain jurisdiction to enforce this Order.

By:  8/30/11

District Court Judge

By: \_\_\_\_\_

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33659 Angeline  
Livonia, MI 48150  
(734) 956.0660  
Attorney for General Shale Brick, Inc.  
734.956.0660

By: \_\_\_\_\_

Mary Beth Cobb (P40080)  
City of Detroit Law Dept.  
660 Woodward Ave., Ste 1650  
First National Building  
Detroit, MI 48226  
313-237-3075

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
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IN RE:

CITY OF DETROIT, MICHIGAN,

DEBTOR

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CASE NO. 13-53846  
HON. THOMAS J. TUCKER  
CHAPTER 9

CERTIFICATE OF SERVICE

I certify that the foregoing was served on all counsel of record on October 27, 2016 through the Electronic Filing System and on the additional parties listed below by first class mail, postage pre-paid.

Raymond Guzall III, P.C.  
31555 West Fourteen Mile Road  
Suite 320  
Farmington Hills, MI 48334

Barry A. Seifman  
Barry A. Seifman, P.C.  
30445 Northwestern Hwy, #310  
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Dearborn Heights, MI 48127

David B. Landry  
Nancy Vayda Dembinski  
Landry, Mazzeo & Dembinski PC  
37000 Grand River, Ste 200  
Farmington Hills, MI 48335

Kajy Development, L.L.C.  
c/o David W. Yaldo  
4036 Telegraph Road, Suite 204  
Bloomfield Hills, MI 48302

Respectfully Submitted,

By: /s/ John G. Colucci  
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